APPENDIX A

Law Offices
EASTBURN AND GRAY

60 East Court Street
Doylestown, PA 18901
Area Code (215) 345-7000

November 28, 1983

Russell A. Muth, Jr.
66 Springs Drive
Doylestown, PA 18901

Re: R. Alexander Muth

Dear Mr. Muth:

Your letter of November 20, 1983, to Dr. Newman has been forwarded to us for a reply. Because of the exceptions that have been filed with the Department of Education by both the District and you, all proceedings are stayed in the above captioned matter. The District is under no obligation to implement any of the recommendations of the hearing officer until such time as the exceptions have been ruled upon.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

EASTBURN AND GRAY

By: Joanne D. Sommer

JDS/cmc

cc: Dr. Newman
Dr. Laws

APPENDIX B

IN RE: ROBERT ALEXANDER MUTH

EXCEPTIONS OF CENTRAL BUCKS SCHOOL DISTRICT TO THE DECISION OF THE HEARING OFFICER

1. If the decision of the Hearing Officer is intended to be a finding that the Central Bucks School District has shown by a preponderance of the evidence that it can provide an appropriate and adequate education for R. Alexander Muth and that placement outside the district is not justified by the evidence presented by the parent, then upon clarification of the recommendations of the Hearing Officer, the exceptions of the Central Bucks School may be withdrawn.

2. The findings of facts, conclusions of law and recommendations of the Hearing Officer do not resolve the general issues sought to be addressed by the parties.

3. The transcript of the due process hearing is incomplete as it does not contain the exhibits introduced by the parties.

4. The summary of the evidence presented by the school district is inaccurate and incomplete as it fails to incorporate the testimony of school district witnesses with the exhibits presented by the school district.

5. The Hearing Officer improperly admitted the report of Dr. Adamson over objection by the school district and ascribed undue weight to its uncorroborated conclusions.

6. The Hearing Officer improperly interpreted the report of Dr. Adamson and improperly adopted the unsupported conclusions of Dr. Adamson.

7. The Findings of Fact of the Hearing Officer are unsupported by the record of the hearing.

8. The Finding of Fact that the student exhibited an inability to work one-on-one with an aide is not supported by the Notes of Testimony and was taken out of the context of the testimony of the principal, David Spencer.

9. The Finding of Fact that SD-14 describes a significant lag in scholastic achievement is an inaccurate interpretation of SD-14 in view of the testing results presented by the school district showing progress equivalent to one year's work for each year the student attended the program offered by the school district.

10. The Hearing Officer improperly relied on out-of-context statements of witnesses and portions of exhibits to support his findings of fact and conclusions of law.

11. The Hearing Officer improperly accepted the recommendations of Dr. Adamson for private school placement of the student. Said recommendation was not the result of review of the school district program, interview of school district teachers, psychologist or professional staff or observation of the student in the educational setting.

12. The Hearing Officer's findings of fact are incomplete and inaccurate in that they:

(a) fail to take into account the proposal offered by the school district in June of 1983 recommending a more restrictive learning environment for the student;

(b) fail to recognize that the parent refused to allow the district to have an independent psychiatric evaluation performed;

(c) fail to recognize the yearly increase in achievement of the student as reflected by the testing scores;

(d) fail to conclude that the student's emotional difficulties have been caused by the parent-child relationship.

13. The Finding of Fact that the auditory language processing examination was secured due to "parental insistence" is totally unsupported by the record.

14. The Finding of Fact that the evaluation by the Diagnostic Learning Consultant indicated highly significant academic under achievement is unsupported by the testimony (N.T. 52, 47-49).

15. The Hearing Officer's analysis of the test scores was erroneous in that he failed to take into account the testimony regarding the progress made by the student since his matriculation at the school district (N.T. 52).

16. The Hearing Officer's findings of fact that the I.E.P. (SD-2) does not describe an appropriate program for the student's learning disabilities is not supported by the evidence.

17. The Finding of Fact that instructional strategies and classroom activities do not address the student's auditory perceptual dysfunction is against the weight of the evidence (N.T. 107, 109).

18. The Finding of Fact that "behavioral success and adjustment was not evident in either the self-contained room nor resource room" is against the weight of the evidence.

19. The Finding of Fact that there is evidence to indicate minimal brain dysfunction is against the weight of the evidence.

20. The Conclusion of Law that the program advocated by the school district is inappropriate relative to effectiveness and efficiency is against the weight of the evidence.

21. The recommendations of the Hearing Officer are not specific and are subject to different interpretations by the parties.

22. The recommendations of the Hearing Officer are not substantiated by the evidence.

23. The Hearing Officer's decision must be reversed because the school district showed, by a ponderance [sic] of the evidence, that its proposal was both appropriate and adequate.

24. The Hearing Officer failed to explain why the preponderance of the evidence requirements had not been met by the school district.

25. The Hearing Officer's Recommendation "A" is against the weight of the evidence and not warranted by the testimony presented in that:

(a) Only one parent of the student is residing in the Commonwealth of Pennsylvania and the student's mother resides in Texas;

(b) The school district's testimony indicated that its personnel had already met with Mr. Muth in June, 1983, and proposed a more restrictive educational setting for the 1983-1984 school year. (N.T. 112-113) Mr. Muth refused to allow the school district to develop a new I.E.P. to reflect this programming (N.T. 129, 130, S.D. 15, S.D. 16, N.T. 140);

(c) The student has not attended school within the Central Bucks School District since on or about September, 1983, but is attending a private school in Massachusetts. (N.T. 140);

(d) The student made appropriate gains in reading (N.T. 52);

(e) There is no evidence in the record to support the conclusion that socio-emotional difficulties were exacerbated by the educational placement. The evidence clearly indicated that the student's secondary emotionality was caused by the home environment and relationship with the parent.

(f) The conclusion that programmatic changes have not alleviated the emotional distress or facilitated the acquisition of necessary academic social and vocational skills is against the weight of the evidence.

26. The school district evidence revealed by a ponderance [sic] of the evidence that Recommendation "B" had been addressed by district professionals. (N.T. 107, 109)

27. Recommendation "C" is outside the scope of the Hearing Officer's discretion and power under the Pennsylvania School Code in that:

(a) The student has not been classified as socially-emotionally disturbed;

(b) A program of behavior modification is not warranted by the evidence and not required as a related support service under the Pennsylvania School Code.

(c) Referral of parents for family therapy is inappropriate as only one parent resides within the Commonwealth of Pennsylvania and the custodial parent has already been requested to undergo counselling but has refused.

28. Recommendation "E" is against the weight of the evidence presented by the school district and parent.

29. The Hearing Officer erred in failing to find that the school district had met its burden of proof by a preponderance of the evidence.

30. The Hearing Officer erred in failing to give sufficient weight to the testimony of the school district regarding the 1983-1984 proposal for placement of the student.

Respectfully submitted,

EASTBURN AND GRAY

By: Joanne D. Sommer

APPENDIX C

David R. Drake
Headmaster

Prides Crossing
Massachusetts 01965-0417
(508) 927-4440

LANDMARK SCHOOL

January 17, 1989

Professor Martha A. Field
Harvard Law School
Cambridge, MA 02138

Dear Professor Field:

In response to your request, Landmark began school on September 14, 1983 and ended June 16, 1984.

I hope this information is helpful to you and that you will call us if we can be of any further assistance.

Sincerely,

MERYL S. DOHERTY
Director of Admission